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12 Attorneys for Defendant
13 LHOIST NORTH AMERICA OF
14 ARIZONA, INC.

15 UNITED STATES DISTRICT COURT
16
17 NORTHERN DISTRICT OF CALIFORNIA
18

19 SIONE FUAPAU, ALFREDO GODINEZ,
20 GABRIEL MENDOZA, MANUEL VACA,
21 MICHAEL NAU, ANTONIO GUZMAN,
22 JESUS GUERRERO, IVAN PACHECO, and
23 MIGUEL REYES, JR.

24 Plaintiffs,

25 v.

26 LHOIST NORTH AMERICA OF ARIZONA,
27 INC.; and DOES 1 through 50, inclusive,

28 Defendants.

Case No.: 5:20-cv-04404-VKD
ORDER RE
**JOINT NOTICE OF SETTLEMENT AND
REQUEST TO TAKE MOTION FOR
CLASS CERTIFICATION (DKT NO. 26)
OFF CALENDAR**

Date: September 21, 2021
Time: 10:00 a.m.
Court: Courtroom 2
San Jose Division

Re: Dkt. No. 37

1 Defendant Lhoist North America, Inc. (“Defendant”) and Plaintiffs Sione Fuapau, Alfredo
 2 Godinez, Gabriel Mendoza, Manuel Vaca, Michael Nau, Antonio Guzman, Jesus Guerrero, Ivan
 3 Pacheco and Miguel Reyes, Jr. (“Plaintiffs”) (collectively, the “Parties”) wish to notify the Court
 4 that they have reached a proposed global resolution in this matter, after significant negotiations and
 5 two mediation sessions.

6 On February 26, 2021, the Parties participated in a full-day mediation with respected
 7 mediator Michael Loeb, Esq. However, the matter did not resolve and the Parties continued to
 8 litigate, including taking the deposition of Defendant’s Person Most Qualified.

9 In compliance with the Court’s scheduling order, on June 7, 2021, Plaintiffs moved for class
 10 certification. The hearing on Plaintiffs’ Motion for Class Certification is currently set for
 11 September 21, 2021. Dkt. No. 35.

12 On September 1, 2021, the Parties participated in another mediation session with Mr. Loeb.
 13 The matter did not immediately settle, but Mr. Loeb made a mediator’s proposal, which the Parties
 14 subsequently accepted. The proposed resolution includes an agreement for Plaintiffs to withdraw
 15 their now-pending Motion for Class Certification, without prejudice to Plaintiffs refiling if a
 16 settlement is not approved despite the Parties’ full good faith efforts, along with other terms and
 17 conditions, including the filing of an amended complaint. The Parties are working to draft a global
 18 longform settlement agreement, which Plaintiffs will present to the Court for preliminary approval.

19 Accordingly, the Parties stipulate and request that the Court:

- 20 1. vacate the hearing on Plaintiffs’ Motion for Class Certification (Dkt. No. 26),
 21 without prejudice to Plaintiffs refiling if a settlement is not approved despite the
 22 Parties’ full good faith efforts, and all other pending dates and deadlines;
- 23 2. set an Order to Show Cause re: Failure to Move for Preliminary Approval in 90 days
 24 to allow the Parties to finalize the longform settlement agreement and prepare
 25 relevant documentation to submit to the Court for preliminary approval of the
 26 proposed class settlement.

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28 ///

1 **SO STIPULATED.**

2 Dated: September 17, 2021

JACKSON LEWIS P.C.

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5 By: /s/ Scott P. Jang
6 Scott P. Jang
7 Lynsey D. Johnson
8 Julie Y. Zong
Attorneys for Defendant
LHOIST NORTH AMERICA OF
ARIZONA, INC.

9 Dated: September 17, 2021

10 FITZPATRICK & SWANSTON
11 DIVERSITY LAW GROUP

12 By: /s/ Max W. Gavron¹
13 Larry W. Lee
14 Max W. Gavron
15 B. James Fitzpatrick
16 Attorneys for Plaintiffs
17 SIONE FUAPAU, ALFREDO GODINEZ,
18 GABRIEL MENDOZA, MANUEL VACA,
19 MICHAEL NAU, ANTONIO GUZMAN,
20 JESUS GUERRERO, IVAN PACHECO, and
21 MIGUEL REYES, JR.
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28 ¹ Pursuant to Local Rule 5-1(i)(3), Defendant's counsel attests that Plaintiffs concurred in the filing of the present filing.

PROPOSED ORDER

Pursuant to the Parties' stipulation and good cause appearing, the Court:

1. Vacates the hearing on Plaintiffs' Motion for Class Certification (Dkt. No. 26), without prejudice to Plaintiffs' refiling if a settlement is not approved despite the Parties' full good faith efforts, and all other pending dates and deadlines;
2. Sets an Order to Show Cause re: Failure to Move for Preliminary Approval in 90 days (December 15, 2021) to allow the Parties to finalize the longform settlement agreement, and prepare relevant documentation to submit to the Court for preliminary approval of the proposed class settlement; and
3. Orders Plaintiffs to move for preliminary approval on or before December 15, 2021. If Plaintiffs do not move for preliminary approval by then, the Court orders the Parties to submit a joint statement explaining the progress of their discussions and an anticipated date Plaintiffs will move for preliminary approval of the proposed settlement.

IT IS SO ORDERED.

Date: September 17, 2021


U.S. Magistrate Judge Virginia DeMarchi